

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

February 11, 2002

Chairman S. Schiller called the meeting to order at 4:14 p.m., and roll was taken.

MEMBERS PRESENT: C. Kufta, S. Schiller, R. Hilt, D. Narowitz, R. Schweifler, D. Newsome, J. Clingman-Scott

MEMBERS ABSENT: None

STAFF PRESENT: B. Moore, H. Griffith

OTHERS PRESENT: J. Schrier, City Attorney; J. Weatherbee, 2284 Oak River Ln.; G. Scott, 1145 E Wesley.

APPROVAL OF MINUTES

A motion to approve the minutes of the regular meeting of January 14, 2003, was made by R. Hilt, supported by D. Narowitz and unanimously approved.

ELECTION OF OFFICERS

D. Narowitz recommended that S. Schiller remain as Chairperson.

A motion to close the Chairperson nomination was made by D. Newsome, supported by R. Hilt and unanimously approved.

A motion that S. Schiller remain as Chairperson was made by D. Narowitz, supported by R. Hilt and unanimously approved.

R. Hilt recommended that C. Kufta remain as Vice-Chair.

A motion to close the Vice-Chair nomination was made by D. Newsome, supported by R. Hilt and unanimously approved.

A motion that C. Kufta remain as Vice-Chair was made by R. Hilt, supported by D. Narowitz and unanimously approved.

Case 2002-25

R. Schweifler requested to have this case brought back before the commission members at the March 11, 2003 meeting. J. Clingman-Scott seconded this request. There was some discussion

regarding the procedure to have this added to the agenda for the next meeting. J. Schrier stated that he didn't know how the Zoning Board of Appeals would usually handle this process. The Chairperson could request staff to do this. He stated that since he usually isn't called on to help the Zoning Board of Appeals, he doesn't know what their protocol would be. He added that at the City Commission meetings any of the City Commissioners could request to see something again and it would be done. S. Schiller asked staff to have this case on the agenda for March.

PUBLIC HEARINGS

Hearing: Case 2003-02: Variance request to permit two- 4,950 square foot lots from previously three - 3,300 foot lots at 1943 Dowd Street by Jim Weatherbee. B. Moore presented the staff report. The three lots in question are approximately 40 feet wide by 82.5 feet deep or 3,300 feet each in area. When the ordinance permitted 40-foot lots, they had to be 4,400 sq. feet in area (i.e., 110 feet deep). The challenge with this property is the short depth of the lots (82.5 feet). Staff was not comfortable with determining that these lots are "legal lots of record" because they do not meet the minimum size requirement of the 1925 ordinance. The applicant understands that issue, but if he makes two lots out of the three non-conforming lots, they still do not meet current standards of the ordinance (6,000 square feet). However, the applicant also has indicated that combining all three lots into one 120-foot lot is too large of a lot for him to build a house in character with the neighborhood. The two proposed 60 feet wide by 82.5 feet deep lots would have 4,950 square feet in area, shy 1,050 sq. feet from the ordinance requirement. Staff has received three calls regarding this case: 1) Beatrice Plicka of 1935 Hudson has no problem with the request. 2) James Wood of 1923 Dowd has no problem with the request so long as single family homes are being built. 3) Judy Swanson of 1923 Dowd has no problem with the project. She provided a copy of the parcel map book for the area to the commission members to see how other properties around this are in size compared with this property.

R. Schweifler asked if the area was zoned R-1. B. Moore stated that it is. J. Clingman-Scott asked if the properties on the west side of the street were oversized. B. Moore stated that the properties to the west do have more depth. J. Weatherbee stated that he would like to build two single-family homes if the three properties were combined and split into two properties. D. Narowitz asked about the square footage of the homes that he would like to build. J. Weatherbee stated that he would build houses according to the zoning ordinance, which would require 1,060 to 1,160 sq. ft. for a 2-bedroom home.

A motion to close the public hearing was made by R. Schweifler, supported by D. Narowitz and unanimously approved.

R. Schweifler stated he felt the variance should be granted with the homes being built according to the zoning ordinance. By combining 3 lots to make 1 lot, would make this lot out of scope and scale with the rest of the neighborhood.

A motion that the variance to permit the creation of two- 4,950 square foot lots from previously three - 3,300 foot lots at 1943 Dowd by Jim Weatherbee be approved, based on the following review standards (found in Section 2502 of the Zoning Ordinance): a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the

intended use of the property that do not apply generally to other properties or class of uses in the same zoning district. b) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity. c) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest. d) That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner. e) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner. f) That the requested variance is the minimum action required to eliminate the difficulty. With the following condition: The structures that are built, must concur with existing homes in the neighborhood and built according to the rules of the zoning ordinance, was made by R. Schweifler, supported by J. Clingman-Scott and approved with C. Kufta and D. Newsome voting nay.

Hearing: Case 2003-03: Request for a use variance to permit a bus storage facility in the R-1 zone by Pioneer Resources. B. Moore presented the staff report. This is an existing non-conforming facility, which already has some bus storage on site. The proposal involves an expansion of paved area for additional bus storage, an expansion of one office building for more offices, and a bus wash bay. Nonconforming uses may expand up to 30% with Planning Commission review, but the proposed expansion exceeds that amount. The bus terminal and wash bay would normally require a B-4 zoning designation and the offices would normally require either a multiple family designation (with a special use permit) or business zoning designation. A rezoning in this case would be poorly received because it would permit many uses on this site not well suited for the neighborhood. The use variance was proposed as an option by staff to offer the opportunity for Pioneer Resources to expand, while limiting the uses on site and protecting the neighborhood. Pioneer Resources is an important institution in the community and they have been located at this facility for years. The nature of their services has evolved significantly and there is a concern that the intensity and function of the site is getting well beyond what they started out as. Under this request, the ZBA has the difficult task of balancing the interests of the neighborhood with the needs of Pioneer Resources. Staff has received two email communications from surrounding neighbors. The Muskegon Area Intermediate School District wants to go on record as supporting the request (see attached). Doris Foster (address unidentified) is opposed to the request because of the “noise that the buses make”. If the ZBA is inclined to grant this request it should be conditioned upon the facility providing screening and landscaping that comply with the standards of the ordinance. The Department of Public Works should approve the Bus bay. The engineering department should review site drainage. The police department recommends site lighting and an alarm system for the structure.

S. Schiller reminded the commission members that this would require a 2/3 vote in order to pass (5 votes). J. Clingman-Scott stated that she has a relationship with one of the applicants and would like to abstain. S. Schiller stated that she wouldn't need to abstain unless the relationship she has is a financial one. J. Clingman-Scott stated that it wasn't financial, but she would prefer to abstain. G. Scott stated that they have had a 50-year history on this block. They have built 6 buildings on this block. They have grown over the years. They have more staff and there are also more transportation contracts. They have run out of room to work efficiently. They have no

problems with the conditions that staff had proposed. They hope to have some screening on both sides. They aren't sure what kind of landscaping would be required, but they are willing to work with staff on this. They will have lighting down the center of the bus parking they will have lighting and he apologized for this not being shown on the site plan. In reference to the individual who had concerns with the noise of the buses, they are also located in the area of Marquette and Wesley Schools. So there is a high concentration of school buses in the area, but it isn't just theirs. They have no control over the public school system's buses. R. Hilt asked what the distance is from where the buses will be and where the residential area is. There seemed to be quite a bit of distance between the two. G. Scott stated that they had saved about 45-50 ft. along Roberts St. They plan on landscaping this area and this may create a better buffer for the residential homes in the area. They are not proposing to change the number of vehicles that are there. They are just asking to expand so they can park them more efficiently so they won't bump into each other and that they have room for the staff. They are not proposing additional vehicles. D. Newsome asked about expanding to the County's parking. G. Scott stated that they will be paving to them and that the County only owns about 15-20 ft. behind their building. Pioneer Resources owns the rest. The County only has parking on the side.

A motion to close the public hearing was made by D. Narowitz, supported by R. Hilt and unanimously approved.

R. Schweifler stated that ISD owns parcels around Pioneer Resources. The City owns Beukema Field and the property that the water tower is on, which is behind them. He doesn't see any residential development happening anytime down the road along this portion of Roberts St. He feels that the variance should be granted.

A motion that the use variance to permit the property at 1145 E. Wesley to expand bus parking, office uses and one bus wash bay (as outlined by the site plan submitted 12/19/02) approved, based on the following review standards (found in Section 2502 of the Zoning Ordinance): a) That the property could not be used (put to a reasonable use) for the purposes permitted in that zone district. b) That the plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions. c) That the proposed use would not alter the essential character of the area and will not materially impair the purposes of this ordinance or the public interest. d) That the alleged hardship is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner. e) That the alleged hardship is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner. f) That the requested variance is the minimum action required to eliminate the hardship. g) That the use variance does not permit a use specifically identified by this Ordinance as a use excluded from the particular zone in which requested. h) The use does not seriously threaten the health of future residents or neighbors. i) The use is not a nuisance per se, or the use in that particular location does not constitute a nuisance. Based on the following conditions: 1) The improvements must be made within one year of the approval date. 2) The bus wash bay must be approved by DPW. 3) A new site plan must be submitted which: a) a. Complies with screening and landscaping criteria in the zoning ordinance. b) Has a drainage system approved by the engineering department. c) Shows security lighting, which complies with the standards of the zoning ordinance, was made by R. Schweifler, supported by D. Narowitz and approved with J. Clingman-Scott abstaining.

OTHER

None.

There being no further business, the meeting was adjourned at 4:42 p.m.

hmg
2/11/03